

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1806-MWD-E TCEQ ID: RN101918134 CASE NO.: 34924
RESPONDENT NAME: City of Hemphill

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Hemphill Wastewater Treatment Plant, located approximately 0.75 mile south of the Hemphill City Hall on Beckcom Road, Hemphill, Sabine County</p> <p>TYPE OF OPERATION: Domestic wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 7, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Robert Hamilton, Mayor, City of Hemphill, P.O. Box 788, Hemphill, Texas 75948-0788 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: September 18, 2007</p> <p>Date of NOE Relating to this Case: November 1, 2007 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010493002, Interim and Final Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$5,550</p> <p>Total Deferred: \$1,110 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$4,440</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) On or before April 30, 2007, replaced a defective return activated sludge pump, made aeration and sludge return adjustments, and implemented additional process control tests to develop a proper solids balance at the Facility; and</p> <p>b) During May 2007, returned to compliance with the permitted effluent limitations of TPDES Permit No. WQ0010493002.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): WQ0010493002

Attachment A
Docket Number: 2007-1806-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Hemphill

Payable Penalty Amount: Four Thousand Four Hundred Forty Dollars (\$4,440)

SEP Amount: Four Thousand Four Hundred Forty Dollars (\$4,440)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance

Location of SEP: Sabine County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

DATES	Assigned	5-Nov-2007	Screening	7-Nov-2007	EPA Due	
	PCW	14-Jan-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Hemphill
Reg. Ent. Ref. No.	RN101918134
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34924	No. of Violations	1	
Docket No.	2007-1806-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen	
Multi-Media		EC's Team	Enforcement Team 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 110% Enhancement **Subtotals 2, 3, & 7** \$3,300

Notes The penalty is enhanced due to one NOV with violations same or similar to those cited in this action and 21 monthly self-reported effluent violations.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction **Subtotal 5** \$750

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent achieved compliance during May 2007.

0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$233
Approx. Cost of Compliance \$5,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$5,550

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$5,550

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$5,550

DEFERRAL 20% Reduction **Adjustment** -\$1,110

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$4,440

Screening Date 7-Nov-2007

Docket No. 2007-1806-MWD-E

PCW

Respondent City of Hemphill

Policy Revision 2 (September 2002)

Case ID No. 34924

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101918134

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	22	110%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 110%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty is enhanced due to one NOV with violations same or similar to those cited in this action and 21 monthly self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 110%

Screening Date	7-Nov-2007	Docket No.	2007-1806-MWD-E	PCW
Respondent	City of Hemphill	Policy Revision 2 (September 2002) PCW Revision September 19, 2007		
Case ID No.	34924			
Reg. Ent. Reference No.	RN101918134			
Media [Statute]	Water Quality			
Enf. Coordinator	Lynley Doyen			
Violation Number	1			
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010493002, Interim and Final Effluent Limitations and Monitoring Requirements No. 1			
Violation Description	Failed to comply with the permitted effluent limitations, as described in the attached table.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

OR		Harm				
	Release	Major	Moderate	Minor		
	Actual			x		
	Potential				Percent	10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
Percent					0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

Base Penalty \$1,000

Violation Events

Number of Violation Events	3	150	Number of violation days
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mark only one with an x	daily		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

Three quarterly events are recommended.

Violation Base Penalty \$3,000

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$233	Violation Final Penalty Total \$5,550
This violation Final Assessed Penalty (adjusted for limits) \$5,550	

Economic Benefit Worksheet

Respondent City of Hemphill
 Case ID No. 34924
 Reg. Ent. Reference No. RN101918134
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$5,000	30-Sep-2006	31-May-2007	0.7	\$11	\$222	\$233
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to replace the return activated sludge pump. Date required is the date ending the first noncompliant month. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$233

EFFLUENT VIOLATION TABLE

City of Hemphill
TPDES Permit No. WQ0010493002
Docket No. 2007-1806-MWD-E

Permitted Effluent Limits	Monitoring Period End Date				
	9/30/06	10/31/06	2/28/07	3/31/07	4/30/07
TSS daily avg. conc. Interim Limit = 20 mg/L	23.8	21.0	N/A	N/A	N/A
TSS daily avg. conc. Final Limit = 20 mg/L	N/A	N/A	21.8	41.3	28.8
TSS Single Grab Final Limit = 65 mg/L	N/A	N/A	c	82.0	76.0

avg. = average

c = compliant

conc. = concentration

mg/L = milligrams per liter

TSS = total suspended solids

Compliance History

Customer/Respondent/Owner-Operator:	CN600688576	City of Hemphill	Classification: AVERAGE	Rating: 2.62
Regulated Entity:	RN101918134	CITY OF HEMPHILL	Classification: AVERAGE	Site Rating: 1.47
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER WASTEWATER LICENSING SLUDGE	PERMIT PERMIT PERMIT LICENSE REGISTRATION	WQ0010493002 TPDES0060801 TX0060801 WQ0010493002 22265	
Location:	LOCATED APPRX 0.75 M S OF THE HEMPHILL CITY HALL ON BECKCOM RD, HEMPHILL, SABINE CO, TX			Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	November 05, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 05, 2002 to November 05, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name: Lynley Doyen	Phone: 512-239-1364			

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 01/06/2003 (190807)
 2 01/16/2003 (190809)
 3 02/11/2003 (190811)
 4 03/04/2003 (190796)
 5 03/24/2003 (190798)
 6 04/25/2003 (190800)
 7 05/30/2003 (309291)
 8 06/23/2003 (309292)
 9 07/11/2003 (62445)
 10 08/01/2003 (309293)
 11 08/29/2003 (309294)
 12 09/22/2003 (309295)
 13 10/24/2003 (309296)
 14 01/13/2004 (259782)
 15 02/17/2004 (309299)
 16 02/27/2004 (309288)
 17 05/24/2004 (357759)
 18 06/10/2004 (309297)
 19 06/10/2004 (309298)
 20 06/16/2004 (309289)
 21 06/16/2004 (309290)
 22 06/21/2004 (357760)
 23 07/12/2004 (274807)
 24 07/23/2004 (357761)
 25 08/23/2004 (357762)
 26 09/28/2004 (357763)
 27 10/22/2004 (357764)
 28 11/10/2004 (339340)
 29 12/27/2004 (357765)
 30 01/26/2005 (384938)
 31 03/21/2005 (443829)
 32 04/22/2005 (443830)

33 05/20/2005 (443831)
34 06/21/2005 (443832)
35 07/27/2005 (443828)
36 08/05/2005 (443833)
37 08/22/2005 (443834)
38 09/23/2005 (443835)
39 11/03/2005 (473972)
40 11/21/2005 (473973)
41 12/20/2005 (473974)
42 01/28/2006 (473975)
43 02/17/2006 (473970)
44 03/20/2006 (473971)
45 04/28/2006 (501926)
46 05/19/2006 (501927)
47 06/19/2006 (501928)
48 08/07/2006 (524206)
49 08/15/2006 (524207)
50 09/27/2006 (524208)
51 10/30/2006 (549165)
52 11/27/2006 (549166)
53 01/10/2007 (582787)
54 01/22/2007 (582788)
55 02/26/2007 (582782)
56 03/15/2007 (582783)
57 04/23/2007 (582784)
58 05/21/2007 (582785)
59 06/18/2007 (582786)
60 11/01/2007 (594898)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/31/2002 (190811)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2003 (190798)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2003 (309291)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2003 (309292)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2003 (309293)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 07/11/2003 (62445)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: OP 10493-002

Description: Failure by the permittee to comply with minimum self-monitoring requirements for flow measurement type and frequency.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.2[G]
30 TAC Chapter 317 317.3[G]
Rqmt Prov: OP 10493-002

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3[G]
Rqmt Prov: OP 10493-002

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317.4(a)(8)
Description: Failure by the permittee to protect the public drinking water supply connections at the wastewater lift stations against possible contamination by installing an air gap or backflow prevention device. Failure by the permittee to protect the public drinking water supply connections at the wastewater lift stations.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317.5(e)(1)[G]
Rqmt Prov: OP 10493-002
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]
30 TAC Chapter 319, SubChapter A 319.7(c)
Rqmt Prov: OP 10493-002
Description: Failure by the permittee to comply with test procedures for the analysis of pollutants as specified in 30 TAC 319.11 - 319.12.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
Rqmt Prov: OP 10493-002
Description: Failure by the permittee to submit accurate discharge monitoring reports (DMRs).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: OP 10493-002
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: OP 10493-002
Description: Failure to report 40% noncompliances to the TCEQ within the required notification period.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: OP 10493-002
Description: Failure to have an Annual Sludge Report available for examination at the time of the investigation.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: OP 10493-002
Description: Failure by the permittee to maintain a dissolved oxygen level greater than or equal to 4.0 mg/L.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317.4(e)[G]
Rqmt Prov: OP 10493-002
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 01/31/2004 (309288)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26.26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2004 (309289)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26.26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2004 (357761)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26.26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2004 (357762)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26.26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2004 (357765)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26.26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2005 (443829)

Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Classification: Moderate

Date: 04/30/2005 (443831)

Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Classification: Moderate

Date: 05/31/2005 (443832)

Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Classification: Moderate

Date: 01/31/2006 (473970)

Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Classification: Moderate

Date: 02/28/2006 (473971)

Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Classification: Moderate

Date: 04/30/2006 (501927)

Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Classification: Moderate

Date: 09/30/2006 (549165)

Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Classification: Moderate

Date: 10/31/2006 (549166)

Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Classification: Moderate

Date: 02/28/2007 (582783)

Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Classification: Moderate

Date: 03/31/2007 (582784)

Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Classification: Moderate

Date: 04/30/2007 (582785)

Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Classification: Moderate

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF HEMPHILL
RN101918134**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1806-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Hemphill ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a domestic wastewater treatment facility located approximately 0.75 mile south of the Hemphill City Hall on Beckcom Road in Hemphill, Sabine County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about November 6, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand Five Hundred Fifty Dollars (\$5,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Four Thousand Four Hundred Forty Dollars (\$4,440) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP") and One Thousand One Hundred Ten Dollars (\$1,110) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
 - a. On or before April 30, 2007, replaced a defective return activated sludge pump, made aeration and sludge return adjustments, and implemented additional process control tests to develop a proper solids balance at the Facility; and
 - b. During May 2007, returned to compliance with the permitted effluent limitations of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010493002.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010493002, Interim and Final Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on September 18, 2007, and as described in the following table:

EFFLUENT VIOLATION TABLE					
Permitted Effluent Limits	Monitoring Period End Date				
	9/30/06	10/31/06	2/28/07	3/31/07	4/30/07
TSS daily avg. conc. Interim Limit = 20 mg/L	23.8	21.0	N/A	N/A	N/A
TSS daily avg. conc. Final Limit = 20 mg/L	N/A	N/A	21.8	41.3	28.8
TSS Single Grab Final Limit = 65 mg/L	N/A	N/A	c	82.0	76.0

avg. = average

c = compliant

conc. = concentration

mg/L = milligrams per liter

TSS = total suspended solids

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Hemphill, Docket No. 2007-1806-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Four Hundred Forty Dollars (\$4,440) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has

occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

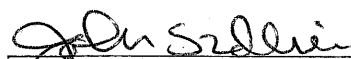
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

City of Hemphill
DOCKET NO. 2007-1806-MWD-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

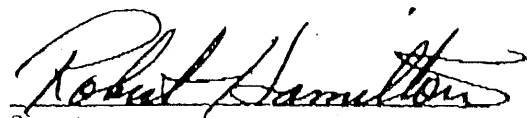
3/10/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

1-30-08
Date

Robert Hamilton
Name (Printed or typed)
Authorized Representative of
City of Hemphill

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-1806-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Hemphill
Payable Penalty Amount:	Four Thousand Four Hundred Forty Dollars (\$4,440)
SEP Amount:	Four Thousand Four Hundred Forty Dollars (\$4,440)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance
Location of SEP:	Sabine County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

